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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,441	11/18/2003	Scott Banister	60063-0028	6992

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HICKMAN PALERMO TRUONG & BECKER, LLP  
2055 GATEWAY PLACE  
SUITE 550  
SAN JOSE, CA 95110

EXAMINER

VU, VIET DUY

ART UNIT PAPER NUMBER

2154

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/717,441

Applicant(s)

BANISTER ET AL.

Examiner

Viet Vu

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6-9,11-25,30-33 and 36-69 is/are rejected.
- 7) ☒ Claim(s) 2-5,10,26-29,34 and 35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/04; 2/04</u> . | 6) <input type="checkbox"/> Other: _____  |

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1. The current title is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

**Art Rejections:**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1, 6-7, 9, 11-17, 23-25, 30-33, 36-38, 43-46 and 65-68 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Raymond, U.S. pat. No. 6,697,462.

Per claims 1 and 6-7, Raymond discloses a system and method for facilitating transmission of messages from a sender to a receiver comprising:

- a) storing sender ID in associated a penalty that the sender is willing to incur for a first message that is unwanted by the receiver (see col 5, lines 52-55);
- b) receiving a query to determine about whether a sender satisfies specific sending criteria (see col 5, lines 1-47);
- c) sending a second message for use by the receiver in determining whether to accept the first message (see col 5, lines 56-60).

Per claims 9 and 11-13, Raymond teaches forfeiting the penalty amount (bond money) from the sender account when the receiver rejects the sender message (see col 6, lines 1-4).

Per claims 14-17, Raymond teaches handling different types of messages (see col 4, lines 1-12).

Claims 23-25, 30-33, 36-38, 43-46 and 65-68 are similar in scope as that of claims 1, 6-7, 9 and 11-17.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 18-22 and 39-42, 65-67 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raymond.

Per claims 18-21, Raymond teaches imposing different penalty money values for different individual receivers (see col 6, lines 35-56). Thus, it would have been obvious to one of ordinary in the art to recognize that a sender would have been associated with multiple penalty values when he was to send messages to different receivers.

Per claim 22, Raymond also discusses an alternative prior art method where the receiver may receive a portion of the penalty amount (see col 2, lines 35-45).

Per claims 39-42, 65-67 and 69, Raymond teaches setting an allowable number of complaints from each receiver before imposing a required bond amount on the sender (see col 5, lines 39-41). Raymond further teaches increasing the bond amount to a higher amount when the number of complaints against sender exceeds a predetermined number (see col 5, lines 44-46).

Raymond does not explicitly teach computing a specific bound amount based upon a number of complaints.

It would have been obvious to one skilled in the art at the time the invention was made to utilize any practical rates to compute the bond amount for each sender based upon the number of complaints in practicing Raymond's invention.

7. Claims 8 and 47-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raymond and further in view of Sundsted, U.S. pat. No. 5,999,967.

Raymond does not teach using encrypted tokens within messages to enable the receiver to verify the sender. Sundsted discloses the use of such tokens (see Sundsted in col 6, line 54 - col 7, line 67).

It would have been obvious to one skilled in the art at the time the invention was made to utilize such encrypted tokens in

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Raymond because it would have enabled the receiver to verify if the message was sent by a legitimate the sender.

**Allowable Subject Matter:**

8. Claim 2-5, 10, 26-29 and 34-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion:**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Friday from 7:00am to 4:00pm. The Group general information number is 571-272-2100. The Group fax number is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on 571-272-3964.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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1/24/06

VIET D. VU  
PRIMARY EXAMINER